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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
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August 28, 2019

Chairwoman Gladys Brown Dutrieuille
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Third Floor Harrisburg,
PA 17120

Comment on Proposed Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards (Docket L-2019-3010267)

Dear Chairwoman Brown Dutrieuille,

Thank you and the Commission for soliciting public comment on safety rules for hazardous liquid pipelines. This is a critical step in allowing the public to express concerns and have their input considered.

Pipeline construction and safety is of great concern in Southeastern Pennsylvania. Although much public and media focus has been on the Mariner East project, tens of thousands of miles of pipeline upgrades and installation are anticipated in the next 10 years, according to state officials. It is critical to enhance regulations now.

The safety of our families and communities is the single most important consideration in the pipeline discussion, and the PUC has ultimate responsibility to ensure that proper rules are in place.

We welcome the opportunity to comment and appreciate the fact that the PUC is looking at all aspects of pipeline safety, from construction methods to leak detection, from public notification to the role of land agents in seeking property rights-of-way.

Our comments on enhancing rules for hazardous liquid pipelines are attached. Thank you for considering these as well as the comments of many other citizens across the Commonwealth. Sincerely,

A handwritten signature in cursive script that reads "Danielle Friel Otten".

Danielle Friel Otten
State Representative, District 155

Cc: Governor Tom Wolf

Public Comment on Proposed Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards (Docket L-2019-3010267)

Cover Over Buried Pipelines

According to Pipeline Safety Trust, federal regulation pertaining to pipeline transmission depth requires that transmission lines such as Mariner East be buried 48 inches below the surface. Some other locations, such as railroad crossings and certain bodies of water, require deeper pipelines. This federal regulation is concerning because depth requirements only apply to installation and do not need to be maintained over time and apply only to pipelines installed since 1970. This standard must be changed so that existing highly volatile pipelines are required to meet modern depth requirements, and the depths must be adjusted further to ensure public safety. According to the Pennsylvania Housing Research Center, the maximum soil freeze depth in Pennsylvania is 54 inches. Pipelines should be at least six-foot deep to put them below the freeze line.

Pipeline Conversions

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has found that it is extremely dangerous to convert oil or gas pipelines to highly volatile gas liquids. Regulations must state that gas and oil pipes shall not be converted to highly volatile gas liquids pipes since it is contraindicated by the industry. Furthermore, regulations must state that pipes made with substandard steel or deteriorated, or defective protective coatings shall not be used on any Pennsylvania pipelines. This information was detailed in Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service published by PHMSA in 2014. More information can be found at <http://www.phmsa.dot.gov>.

Also, of concern regarding pipeline conversions are the property rights of landowners who have existing easements. Generally, incident risk is greater for highly volatile gas liquids pipelines than for traditional oil and gas pipelines. A certificate of convenience and necessity and easement agreements should not be transferrable. Whenever they propose changing the product that runs through an existing pipeline or adding a new pipeline to the easement, pipeline operators must be required to obtain new certificates and easement agreements.

Warning Systems & Public Notification

On May 30, 2019 Timothy Boyce, director of the Delaware County Department of Emergency Services testified before the House Veterans Affairs and Emergency Preparedness Committee at a public hearing. In his remarks, Boyce noted the lack of state funding for emergency preparedness around potential pipeline incidents and the lack of plans in place for a community-wide evacuation especially in the first 30 minutes of an incident.

“You know, we have firefighting plans, we have hazard control plans, we have air monitoring plans, but we don't have a commonality people plan,” Boyce said. “Not everybody has a smart phone. Not everyone can self-evacuate.”

It is imperative that leak and incident detection systems are integrated with County Emergency Services in order to properly understand and mitigate risk. Integrated leak and incident detection systems must

be installed prior to pipeline operation, and a notification system must be in place to warn the public in the event of a pipeline emergency. Emergency response plans need to be developed to adequately prepare the public in the event of an emergency. These plans must be created in coordination with all levels of government including local municipalities and be tailored to individual communities. Emergency notification and evacuation plans must include individuals with disabilities and be compliant with the American Disabilities Act.

Public Education and Preparedness

The Commission should work to develop plans that provide the general public with proper comprehensive information and education regarding pipeline safety. The public should be provided with resources that unambiguously explain any risks posed by pipelines and how to respond in the event of an emergency. A lack of transparency regarding pipeline risk will undermine public safety and trust.

As an example, the Exelon nuclear power plant in Limerick, PA provides an annual communication that outlines the risks, how to know when to follow emergency procedures, exactly how they will be notified, complete with a map of escape routes, and shelters based on the location of evacuees. If, for example, a parent is at home or at work when an emergency response is required and their children are at one of the schools within the potential impact radius, they will know where their children have been evacuated to and how to most safely be reunified with their family members.

Definition of Public Utility

The term “public utility” must be redefined to clarify and designate that the majority of the product or service must be essential, and the end user must be the public. Public utility status should not be a designation given to corporation for the purpose of manufacturing and/or export of non-essential consumer products. Mariner East was designated as a public utility even though only a small percent of the pipeline capacity is providing resources to Pennsylvania consumers for energy and most of the capacity is being sold to the plastics manufacturing industry. This would give local governments greater ability to regulate public health and safety issues when it comes to infrastructure expansion, especially in high consequence areas.

Leak Detection

HB 1735, introduced in May 2019 by Rep. Danielle Friel Otten with nine co-sponsors to date, would provide standards and a fee-generated funding mechanism to cover the cost of real-time leak detection systems that communicate directly with the appropriate first responders. The bill takes into account the size of the pipeline within the municipality, miles of pipeline, pressure in the pipeline, volume of product flowing through the pipeline, population density within potential impact radii, setbacks, report of the pipeline operator on pressure, contents and location of pipes to other pipes in the easement, in establishing a fee imposed on the pipeline operator.

This board would also enhance public notification as outlined above in “Public Education and Preparedness”.

The PUC should consider implementing such a program and funding mechanism for local municipalities within this rulemaking procedure in order to shift the cost burden of early detection and public warning systems off the taxpayers to where it belongs, the pipeline operators.

Land Agents

Some land agents used by drilling/pipeline companies have harassed, bullied, and misled landowners. With this in mind, we recommend that the Commission require the Real Estate Commission to certify and register land agents engaged in the acquisition of oil, gas and mineral rights (including rights for a pipeline), and those acting to secure right of way for public utilities. Landowners will have the peace of mind that they are negotiating with a state-certified individual. In addition, they will have recourse and a place to turn if the land agent behaves in an unprofessional manner.

Safety Setbacks

Although the PUC does not have jurisdiction over pipeline routes or siting, we urge the Commission to coordinate with the Department of Environmental Protection (DEP) regarding ensuring that routes are approved with community impacts in mind, particularly looking at health and environmental impact.

Safety setbacks are critical in preventing damage from pipeline malfunctions. There should be a minimum setback for new volatile pipelines that meet or exceed the potential impact radius. For example, if based on a risk assessment the potential impact radius for a pipeline is 1,500 feet, the minimum setback should be no less than 1,500 feet. There are currently no setbacks in place for Pennsylvania pipelines, and this imposes an involuntary risk upon many residents of the Commonwealth.

Federal law (49 U. S. Code § 60112) provides for sanctions against pipeline facilities deemed “hazardous to life, property or the environment”. The PUC should take the lead in defining what is unsafe and hazardous to the public in the Commonwealth of Pennsylvania. This would establish a standard to define what is a reasonable risk to the commonwealth.

The PUC should develop a formula that takes into account the size of the pipeline within the municipality, miles of pipeline, pressure in the pipeline, volume of product flowing through the pipeline, population density within potential impact radii, setbacks, report of the pipeline operator on pressure, contents and location of pipes to other pipes in the easement and determine statistical value of life equation and threshold. If that threshold is met, the operator should be required to re-route, discontinue service, or increase setbacks by procuring additional easements and land rights.

Accident Liability

Regarding insurance, Sunoco and other Highly Volatile Pipeline Operators have a limited liability partnership. Sunoco has indemnified their parent company, Energy Transfer, until 2032 for all environmental and hazard damages. Regulations must be amended to include proper insurance requirements for incidents on NGL and other volatile pipelines. According to HMCRP Report 5: A Guide for Assessing Community Emergency Response Needs and Capabilities for Hazardous Materials Releases, written by PHMSA and DOT, unmitigated risks that expose one thousand lives to death could result in a billion dollars in damages. It is imperative that pipeline operators are prepared to pay for these

damages. The financial burden must not be placed on the impacted community experiencing potential catastrophic loss at the hands of a corporation.

Violations

Fines on pipeline violations must never be waived. Pipeline operators must be held accountable, and they will not be accountable if fines are waived. Additionally, the PUC should develop a threshold for the number of violations a single operator can incur before operations are stopped. The burden of the pipeline must be placed on the operators and not the people of Pennsylvania. Furthermore, the cost of certain fines for pipeline violations should be increased.

Line Markers

Failure to place Line Markers on extensions of pipelines often creates a risk of those pipelines being unintentionally damaged by digging. Line markers should display the depth of the pipe and should be checked annually for compliance.

Pressure Testing, Operating Pressure, and Valves

Current regulations do not account for the differences between regular oil and gas pipelines and volatile gas liquids pipelines. Standards should be set to account for pressure and flow differences. This review should include minimum and maximum pressure testing values, operating pressure maximums, emergency shutoff valve locations, valve placement and security and construction standards.

Environmental Justice (Vulnerability Scale and Cumulative Impact)

Regarding the heavy environmental impacts of pipelines, the PUC must work extensively with the Department of Environmental Protection (DEP) to assess the cumulative impact of pipeline projects in accordance with Delaware Rivers Network v. FERC. This could encompass use of the Environmental Justice Protocol (EJP) and Vulnerability Scale as advocated by the Public Interest Law Center.

Respectfully signed and submitted by,

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Sue Morgan

Chester Springs

Lani Frank

Frazer

Lisa Obrecht

West Chester

Karen Johnson

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Rebecca Britton

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Wayne

Margaret Quinn

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Kathleen Griffith

Exton

Barbara Crowe

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Linda Yu

Glen Mills

Elizabeth Brindle

Glenmoore

Roberta Lewis

West Chester

Edward Hunt

West Chester

Isabelle Burk

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James Burk

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Lauren Cortesi
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Amy Mcginnis

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Brett Mcginnis

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Oliver Mcginnis

West Chester

Charlie Mcginnis

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Margaret Mccullough

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Gerard Mcginnis

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Susan Johnstone
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Susan Alloway
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Laura Davis
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Phil Dague
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John Morgan
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Jeanne Berlin
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Lee Gerhart
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